

REMARKS

The Office Action dated December 8, 2006 has been carefully considered. Claims 1, and 20-23 have been amended. Claims 1, 5, 11-14, 16-23, 38-40, and 42-44 are in this application.

Support for the amendments to claims 1, 20-23 are found throughout the specification and in particular on page 7, lines 7-14. No new matter has been entered.

Claim 1 was provisionally rejected on the ground of non-statutory obviousness-type double patenting in view of co-pending U.S. Patent Application No. 09/970,015. Under allowance of the claims, applicants will submit a terminal disclaimer for overcoming this rejection.

The previously presented claims were rejected under 35 U.S.C. § 103 as obvious in view of U.S. Patent No. 5,440,961 to Lucas, Jr. et al. in view of U.S. Patent No. 5,440,961 to Wankow. Applicants submit that the teachings of these references do not teach or suggest the invention defined by the amended claims.

As noted by the Examiner, Lucas, Jr. et al. do not teach or suggest that a film cutter apparatus is made from polyvinyl chloride with plasticizer. The Examiner indicated Wankow teaches material 30 provides an attraction to the plastic wrap. The Examiner noted that Lucas, Jr. et al. and Wankow do not teach the amount of plasticizer in the polyvinyl chloride being at least 10 percent.

Wankow discloses a dispensing carton for a roll of sheet material including a vinyl spot of material to hold the film from falling back into the box.

As noted by the Examiner, in contrast to the invention defined by the present claims, Wankow does not teach or suggest rails formed of a first material of polyvinyl chloride comprising at least 10% plasticizer coextruded with a second material formed of rigid vinyl or rigid PVC. Rather, Wankow is directed to a vinyl spot of material formed on the carton to prevent the material from retracting into the carton. As noted in the Declaration of Paul Vegliante submitted herewith Wankow teaches that a conventional serrated blade is used by exerting force by hand to rip, tear and puncture the film against the serrated edge. The vinyl spots of Wankow are on the bottom of the box just above the serrated edge. Accordingly, one must pull the film over the serrated edge and away from the box all together to begin the cutting

process. Since the ripping, tearing and puncturing occurs on the opposite side of the serrated edge where a combination of movement and pressure is necessary for the cutting to occur with a serrated edge it is obvious to one of ordinary skill in the art that the vinyl spots play no roll in cutting the film. After the film is cut, the vinyl spots have enough holding force to prevent a .0003 piece of film from falling back into the box via static friction. Because the vinyl spots hold an almost weightless piece of film in place with no plausible relation to cutting it is in no way obvious to one of ordinary skill in the art of extrusion to correlate the vinyl spots with the combination of a co-extruded top surface cutting apparatus combined with a blade that is placed at an angle where the film is severed which positioning demands the film be completely stationary which is exactly opposite of the force and methodology used with a serrated blade. As described on page 6, lines 1-3 of the present application, the blade angle provides optimal performance of cutting. In Wankow, there is no teaching of the combination of rails formed of a material for clinging plastic wrap to the rails before and after cutting of the plastic wrap. Further, there is no teaching or suggestion in Wankow of a blade housing sliding within a channel formed between the rails and having a blade angled from a bottom edge of the blade. Rather, Wankow is directed to a saw tooth metal edge for tearing or serrating the film rather than cutting of the film with a slide cutter. Similarly, Lucas, Jr. et al. teaches a star cutter and do not teach or suggest a blade angled from a bottom edge of the blade.

Furthermore, Wankow teaches in Example I, a liquid formulation with less than 10% plasticization which teaches away from the present invention, including at least 10% plasticization, and therefore Wankow does not provide the attraction defined by the present claims. The Examiner indicated that it would be obvious to one of ordinary skill in the art to provide at least 10% plasticizer. However, Applicants submit that one of ordinary skill in the art would not be motivated to increase the amount of plasticizer following the teachings of Wankow since Wankow teaches a reduced amount of plasticizer. Further, neither of the references teach the structure of a rail having cling properties in combination with a rail having durability properties. Accordingly, the invention defined by the present claims is not obvious in view of Lucas, Jr., et al. in combination with Wankow.

Dependent claim 18 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lucas, Jr. et al. and Wankow in view of U.S. Patent No. 3,277,760 to Keene et al.

Keene et al. teach an apparatus for severing a web. The lower portion of a shuttle is an elongated cylindrical member which may be tapered at either terminal portion to engage insert 46. Means are used to hold the film adjacent to surface 14. (Col. 2, lines 34-37).

In contrast to the invention defined by the present claims, Keene et al. do not teach or suggest at least one rail being formed of a material providing cling properties to the plastic wrap received over the rail for attracting the plastic wrap to the rail, the material by rubber polyvinylchloride comprising at least 10% plasticizer, silicon elastimer and combination thereof. To the contrary, Keene et al. use means such as rollers to hold the plastic wrap down. Accordingly, Keene et al. to not cure the deficiencies of Lucas, Jr. et al.

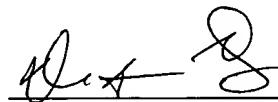
Applicants direct the Examiner to Applicants' remarks regarding the 35 U.S.C. § 103(a) of independent claim 1 upon which claims 18 and 19 are dependent from. Upon finding the allowance of independent claim 1, the rejection with respect to dependent claims 18 and 19 should be obviated and Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection upon finding claim 1 allowable.

With regard to claims 38 and 39 were rejected under 35 U.S.C. § 103 as obvious in view of Lucas and Wankow in combination with Boda, the Examiner indicated that Boda teaches molding parts by extrusion. However, Boda does not teach or suggest coextrusion of a rail base and rails. Boda et al. do not teach or suggest at least one rail being formed of a material providing cling properties to the plastic wrap received over the rail for attracting the plastic wrap to the rail, the material by rubber, polyvinylchloride comprising at least 10% plasticizer, silicon elastimer and combination thereof. Further, Boda does not teach or suggest that the blade is angled.

Accordingly, Boda do not cure the deficiencies of Lucas, Jr. et al. and Wankow noted above since neither reference teaches or suggests a film cutter apparatus comprising rails including a material to provide cling properties to plastic wrap received over the rail for attracting the plastic wrap to the rail.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,



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